

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

12 TOMAS LOPEZ MENEWEATHER,
13 Plaintiff,
14 vs.
15 B. POWELL, et al.,
16 Defendants.

Case No: C 07-4204 SBA (pr)

ORDER GRANTING MOTION FOR EXTENSION OF TIME, DENYING MOTIONS IN LIMINE WITHOUT PREJUDICE, and REFERRING ACTION FOR SETTLEMENT

Docket 163, 168

I. INTRODUCTION

This prisoner civil rights case was scheduled to go to trial on September 17, 2012. However, on August 17, 2012, Plaintiff, who is pro se, filed a motion for continuance based on alleged medical reasons. Dkt. 162. Shortly thereafter, Defendants filed their motions in limine on August 24, 2012. Dkt. 163. On the same day, the Court issued an order granting Plaintiff twenty-one days to resubmit his motion for continuance supported by appropriate medical documentation. Dkt. 165. On September 26, 2012, Plaintiff filed a request for additional time to file his renewed motion for continuance. Dkt. 168. The Court addresses these motions, in turn.

1 **II. ANALYSIS**

2 **A. RENEWED MOTION FOR CONTINUANCE**

3 Plaintiff seeks additional time to file his renewed motion for continuance due to his
4 limited access to the prison law library. Good cause appearing, the Court GRANTS
5 Plaintiff's request. Plaintiff shall have twenty-one (21) days from the date this Order is
6 filed to submit his renewed motion. The Court notes that Plaintiff has had ample time to
7 prepare his motion. Therefore, the Court will not grant any further extensions, absent a
8 showing of exigent circumstances. In the event Plaintiff fails to timely resubmit his
9 motion, the Court will *sua sponte* schedule this matter for trial, forthwith.

10 **B. MOTIONS IN LIMINE**

11 The Court notes that Defendants' motions in limine are currently pending, though
12 the pretrial conference has not yet been rescheduled. Defendants' motions in limine are
13 therefore DENIED WITHOUT PREJUDICE to renewal once the pretrial conference and
14 trial date have been rescheduled, at which time the Court will issue a new briefing schedule
15 relating to the motions in limine.

16 **C. SETTLEMENT CONFERENCE**

17 Discovery is now closed and all that remains is for the case to proceed to trial.
18 Although Plaintiff has indicated his desire to continue the trial, the fact remains that—even
19 with a continuance—this case will eventually be presented to a jury. Plaintiff will be
20 required to present his case to the jury *without an attorney*. As noted, the fact that Plaintiff
21 is representing himself is no excuse for failing to comply with the rules and procedures of
22 this Court. *In addition, Plaintiff should be aware that the failure to abide by those rules*
23 *and/or comply with the Orders of this Court may result in the dismissal of this action.*
24 Ferdik v. Bonzelet, 963 F.2d 1258, 1260 (9th Cir. 1992) (“Pursuant to Federal Rule of Civil
25 Procedure 41(b), the district court may dismiss an action for failure to comply with any
26 order of the court.”).

27 This Court has contacted the chambers of Magistrate Judge Nandor Vadas, who is
28 amenable to conducting another settlement conference in this matter. Both Plaintiff and

1 Defendants have a strong incentive to settle this action on their own accord, rather than
2 expending additional time and resources to preparing this case for trial. Therefore, the
3 parties shall make a good faith effort to resolve this action at the settlement conference
4 before Magistrate Judge Vadas, who will contact the parties shortly regarding the date for
5 the settlement conference.

6 **III. CONCLUSION**

7 For the reasons stated above,

8 **IT IS HEREBY ORDERED THAT:**

9 1. Plaintiff's request for additional time to file his renewed motion for
10 continuance (Dkt. 168) is GRANTED. Plaintiff shall file his renewed motion within
11 twenty-one (21) days of the date this Order is filed. The Court will not grant any further
12 extensions, absent a showing of exigent circumstances.

13 2. Defendants' motions in limine (Dkt. 163) are DENIED without prejudice to
14 renewal once the pretrial conference and trial date have been rescheduled.

15 3. This matter is REFERRED to Magistrate Judge Nandor Vadas for a
16 mandatory settlement conference to take place within ninety (90) days from the date this
17 Order is filed.

18 **IT IS SO ORDERED.**

19 Dated: February 21, 2013


20 SAUNDRA BROWN ARMSTRONG
21 United States District Judge

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